

The complaint

A company, which I'll refer to as D, complains that PayrNet Limited has declined to reimburse it for unauthorised payments.

What happened

The facts are well-known to both parties, so I'll summarise them briefly.

Mr P, the director of D says that he received a call from a scammer impersonating PayrNet. The caller told him that someone had attempted to set up an apple wallet on D's account.

The caller persuaded Mr P to enter secure codes on his keypad believing he was cancelling attempted payments and to protect the account. Mr P was also persuaded to return funds to the account to avoid it from being frozen.

When Mr P noticed a payment from the account, he saw a comment in the live chat from someone else confirming it was him and so he wrote that it wasn't him and asked for it to be cancelled. Mr P's wife then contacted PayrNet and was told Mr P should hang up the call. He did so and noticed a second payment leave the account.

PayrNet declined to reimburse the payments – it said as the purchases were made using Apple Pay it had no chargeback rights. It also said that the payments were only possible because Mr P had shared secure codes.

When D complained to our service, the investigator upheld the complaint. In summary they didn't think PayrNet had fairly declined D's claim and recommended it refund the disputed payments and pay it interest on the loss for the time it was without these funds.

PayrNet didn't agree, in summary it said it treated the payments as authorised because a security code personal to the cardholder was used. And that it thought Mr P had been grossly negligent by ignoring its warnings and sharing the secure codes.

So, the matter has been passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so I'm upholding this complaint for the following reasons:

- As the payments were in 2023, the relevant law here is the Payment Services Regulations 2017. Broadly speaking, the starting point is that a customer is liable for payments they authorised and isn't liable for payments they didn't authorise. There are exceptions to this which I'll go onto later.
- It's common ground that Mr P fell victim to a highly sophisticated social engineering scam and PayrNet also appears to accept that he didn't make the disputed payments

- himself or agree to someone making them on his behalf.
- The payments appear to be authenticated correctly, but in order for the payments to be authorised Mr P would also have needed to consent to them. PayrNet have referenced the account terms and conditions and say the secure code was used to set up Apple Pay. But Mr P was tricked into entering the secure codes into his keypad which the scammer then used. There's no suggestion that Mr P used the Apple Pay or agreed to someone else making payments from D's account, so I don't think it would be fair to treat the payments as authorised.
 - PayrNet has also said that D is liable for the payments on the basis that Mr P was grossly negligent in sharing the secure codes. It says each code said what it was for and warned him not to share it.
 - Mr P has explained that the caller successfully impersonated PayrNet by spoofing its number and knew information about the account. He was reassured by the caller providing a consistent message that he shouldn't share the code and rather use it by entering it in his keypad. Mr P was convinced that D's funds were at risk and thought he needed to act quickly to protect it. In the circumstances, I think a lot of people would have been persuaded to act in a similar way.
 - Gross negligence goes beyond ordinary carelessness, and I don't think what Mr P did in the circumstances amounts to seriously disregarding an obvious risk.

For these reasons I don't think PayrNet has acted fairly in declining to provide D with a refund. I also think it would be fair for PayrNet to pay interest on this amount to reflect the time D has been without the funds.

My final decision

My final decision is that I uphold this complaint and that PayrNet Limited should reimburse the disputed payments and pay D simple interest at a rate of 8% on this amount from the date of the payments to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 25 October 2024.

Stephanie Mitchell
Ombudsman